

REMARKS/ARGUMENTS

Status of Application

Claims 1-6 and 8-19 are pending in this application. Claims 1, 2, 9, 11, and 14-19 have been amended and claim 7 has been cancelled. This amendment does not add new matter.

Objections to the Specification

The Examiner objected to the disclosure because the carriage was incorrectly labeled as 54. Applicants have amended the paragraph at page 6 line 21 to properly recite carriage 58.

The Examiner objected to the disclosure because the specification fails to claim priority to the provisional application or the PCT application. Applicants have amended the specification to recite the proper priority claims. Since the application was properly filed as a national phase of the PCT application, which inherently included all the priority information, it is believed that to the amendment to the specification is a formality. Accordingly, it is believed that there is no need to file a petition to present the priority claim.

The Examiner objected to the specification as failing to provide proper antecedent basis for the subject matter of claim 14. The Examiner is correct that the first drive mechanism does not include a retainer to fixedly hold a specimen to the carriage. Rather, the first drive mechanism includes a retainer to fixedly hold the lens to the carriage. Applicants have amended claim 14 at to recite that the retainer holds the lens to the carriage, and further that rotation of the carriage is translated into linear movement of the lens.

Objections to the Drawings

The Examiner objected to the drawings as not showing the arcuate motion feature of claim 7. Applicants have canceled claim 7, thereby obviating the need for a drawing correction.

Information Disclosure Statement

The Examiner objected to Information Disclosure Statement as failing to comply with 37 CFR §98(a)(2). Unfortunately, while the Information Disclosure Statement stated that

copies of the references were provided, Applicants undersigned attorney is not in a position to determine whether copies of the cited references were provided. If the objection is due to a lack of copies of the references, Applicants will gladly provide copies upon request. If the Examiner is objection on another basis, Applicants respectfully request clarification.

Claim Objections

The Examiner objected to claim 15 as containing a misspelling of the word "second." Applicants have amended claim 15 to correct the misspelling.

Prior Art Rejection

The Examiner has rejected all the claims as anticipated by U.S. Patent No. 5,381,224 to Dixon et al. (Dixon) or as unpatentable for obviousness in over Dixon in view of one or more additional cited references. Applicants have amended all the independent claims to recite, one way or another, that the first optical signal is moved relative to the specimen by moving an objective/lens relative to the sample. This feature is nowhere shown or suggested in Dixon or any of the other cited references. Accordingly, the independent claims, as amended, are believed patentable over the prior art. The dependent claims are, by their terms narrower than the claims from which they depend, and are patentable for that reason alone.

Applicants have also amended claim 1 to recite that the signal from the specimen is emitted from the specimen rather than being reflected from the specimen. This improves consistency with the specification since the detector is described as detecting fluorescent light (see, for example, page 5, lines 10-16). While the specification also refers to the reflected beam, it is believed that the amended language is preferable, and is supported by the specification. This amendment potentially broadens the claim, but no new matter is added.

Applicants have made a number of other amendments to the claims to improve readability and consistency. These latter amendments were not made in response to any rejection related to patentability, and are not believed to narrow the claims or otherwise amount to any implied intent to relinquish claim scope.

Appl. No. 09/674,585
Amdt. dated December 1, 2003
Reply to Office Action of August 1, 2003

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CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 650-326-2400.

Respectfully submitted,

A handwritten signature in black ink that reads "David Slone". The signature is written in a cursive, flowing style.

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